

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**BILL DRAFT 2007-SVxz-21 [v.3] (04/21)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
4/29/2008 6:36:30 PM**

Short Title: Close Franchise Tax Loopholes.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED  
AN ACT TO CLOSE FRANCHISE TAX LOOPHOLES BY REQUIRING A  
LIMITED LIABILITY COMPANY THAT ELECTS TO BE TREATED AS A  
CORPORATION AND A CAPTIVE REIT TO PAY FRANCHISE TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-114(b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(2) Corporation. – A domestic corporation, a foreign corporation, an electric membership corporation organized under Chapter 117 of the General Statutes or doing business in this State, or an association that is organized for pecuniary gain, has capital stock represented by shares, whether with or without par value, and has privileges not possessed by individuals or partnerships. The term includes a mutual or capital stock savings and loan association or building and loan association chartered under the laws of any state or of the United States. The term includes a limited liability company that elects to be taxed as a corporation under the Code, but does not otherwise include a limited liability company.

..."

**SECTION 2.** G.S. 105-114.1(a)(5) reads as rewritten:

(5) Noncorporate limited liability company. – A limited liability company that does not elect to be taxed as a corporation under the Code.

**SECTION 3.** G.S. 105-125(b) reads as rewritten:

"(b) Certain Investment Companies. –A corporation doing business in North Carolina that meets one or more of the following conditions may, in determining its basis for franchise tax, deduct the aggregate market value of its investments in the

1 stocks, bonds, debentures, or other securities or evidences of debt of other corporations,  
2 partnerships, individuals, municipalities, governmental agencies, or governments:

3 (1) A regulated investment company. A regulated investment company is  
4 an entity that qualifies as a regulated investment company under  
5 section 851 of the Code.

6 (2) A REIT, unless the REIT is a captive REIT. The terms 'REIT' and  
7 'captive REIT' have the same meanings as defined in G.S. 105-  
8 130.12."

9 **SECTION 4.** This act is effective for taxable years beginning on or after  
10 January 1, 2008.